



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

November 19, 2009

Mr. John DeFrance
Paramount Logistics, LLC
c/o Ralphs Grocery Company
1100 W. Artesia Boulevard
Compton, CA 90220

EXECUTED COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY IN ACCORDANCE WITH JULY 28, 2009, CONDITIONAL NO FURTHER REQUIREMENTS LETTER - PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER - CERRO METAL PRODUCTS COMPANY, 14900 GARFIELD AVENUE, PARAMOUNT, CALIFORNIA (SCP NO. 0464, SITE ID 2048900)

Dear Mr. DeFrance:

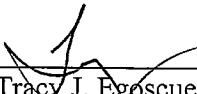
Enclosed is an executed and notarized copy of the Covenant for the above referenced property:

- 14900 Garfield Avenue, Paramount, California

To meet the conditions of the July 28, 2009, Conditional No Further Requirements letter for Soil, the document shall be executed and notarized by the Covenantor. In accordance with section 5.4 of the Covenant, this document shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution. You are required to provide this Regional Board with fully executed, notarized copies of the *Covenant and Environmental Restriction on Property* and evidence of their recording in the County of Los Angeles, by **December 22, 2009**. Upon receipt of the document, the conditions of the July 28, 2009, Conditional No Further Requirements letter for Soil will be considered satisfied.

Should you have any questions related to this project, please contact Mr. Pinaki R. Guha-Niyogi at (213) 576-6731, or Mr. Dixon Oriola at (213) 576-6803 of my staff, or you can send them e-mails at: pguha@waterboards.ca.gov or doriola@waterboards.ca.gov.

Sincerely,


Tracy J. Egoscue
Executive Officer

Enclosure: Executed *Covenant and Environmental Restriction on Property*

California Environmental Protection Agency



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. John DeFrance
Paramount Logistics, LLC

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November 19, 2009

cc: Kyle A. Christie, Atlantic Richfield Company (BP)
Richard O. Richter, Exponent, Inc.
Eric Smith, Waterstone Environmental, Inc.
Alan Tuntland, Birtcher Commercial Development Group
Steven E. Loftis, The Kroger Company
Kurt Weissmuller, Alston & Bird LLP

California Environmental Protection Agency



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Recording Requested By:

Paramount Logistics, LLC
c/o Ralphs Grocery Company
1100 W. Artesia Boulevard
Compton, CA 90220

When Recorded, Mail To:

Tracy J. Egoscue, Executive Officer
California Regional Water Quality Control Board Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, California 90013

**COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY**

FORMER CERRO METALS PRODUCTS
14900 Garfield Avenue, Paramount, CA
[APN: 6241-018-022]
LARWQCB SLIC CASE [0464]

This Covenant and Environmental Restriction on Property ("Covenant") is made as of the ____ day of _____, 2009, by Paramount Logistics, LLC, an Ohio limited liability company ("Covenantor") who is the Owner of record of that certain property situated at 14900 Garfield Avenue, in the City of Paramount, County of Los Angeles, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board, Los Angeles Region ("Board"), with reference to the following facts:

A. Nature of Covenant. This Covenant is an environmental covenant provided for by Civil Code section 1471 and required by the Board pursuant to Water Code section [13304 or 13307.1] because the Burdened Property is contaminated by hazardous materials as defined in section 25260 of the Health and Safety Code.

B. Contamination of the Burdened Property. The soil and groundwater at the Burdened Property were contaminated by degreasing and metal cleaning operations conducted by the former owners, including Cerro Metal Products Company, who has on-going remedial obligations with respect to the contamination. The known contamination originally consisted of inorganic and organic chemicals including, chromium and copper in the vadose zone in the north central portion of the site, and chlorinated solvents and 1,4-Dioxane in the soils and groundwater in the south central portion of the site. The chlorinated solvents include: 1,1 -Dichloroethane (1,1 -DCA), 1,2-Dichloroethane (1,2-DCA), 1,1-Dichloroethylene (1,1-DCE), cis- and trans 1,2-

Dichloroethylene (cis-/trans- 1,2-DCE), Tetrachloroethylene (PCE), 1,1,1-Trichloroethane (1,1,1-TCA), 1,1,2-Trichloroethane (1,1,2-TCA), Trichloroethylene (TCE), and Vinyl Chloride (collectively "Solvent Contamination"). In addition, diesel fuel related chemicals have been detected in soils near a former above ground storage tank containing diesel. The Board has approved leaving the chromium and copper impacted soils in place because they are in the vadose zone, 10 feet below grade, pose no threat to humans or the environment and have not impacted groundwater. No further action is needed for the copper and chromium impacted soils, except for the recordation of and compliance with this Covenant. The 1,4-Dioxane soil contamination has been excavated and properly disposed of, and no further requirement is needed with respect to the 1,4-Dioxane soil contamination. By means of a soil vapor extraction system and soil excavation, the Solvent Contamination in the soil has been sufficiently removed and/or treated, and no further requirement is needed to address the Solvent Contamination in soil. At the conclusion of soil remedial activities, PCE and TCE in soil vapor were 10 micrograms per liter ($\mu\text{g/L}$) and 6.6 $\mu\text{g/L}$ respectively, whereas PCE and TCE in soil was 0.023 milligrams per kilogram (mg/kg) and 0.017 mg/kg , respectively. The diesel-impacted soils have been excavated with residual concentrations below 400 mg/kg , which is below the accepted cleanup level for diesel of 1,000 mg/kg , and therefore no further requirement is needed for any diesel impacted soils. By means of air sparging/soil vapor extraction system, soil excavation, and groundwater pump and treat system, the Solvent Contamination and the 1,4 Dioxane in groundwater have been reduced. Such treatments will continue until all such hazardous materials in groundwater have been remediated in accordance with the requirements of the Board, so as to allow for the issuance of a no further requirements letter for groundwater and for the entire Burdened Property by the Board. As of March 2009, the Solvent Contamination concentrations have already been remediated to the maximum following levels in groundwater: 1,1-Dichloroethane (0.65 mg/L), 1,2-Dichloroethane (0.090 mg/L), 1,1-Dichloroethylene (2.0 mg/L), cis- 1,2-Dichloroethylene (0.17 mg/L), trans 1,2-Dichloroethylene (0.030 mg/L), Tetrachloroethylene (0.14 mg/L), 1,1,1-Trichloroethane (0.010 mg/L), 1,1,2-Trichloroethane (0.20), Trichloroethylene (1.4 mg/L), and Vinyl Chloride (0.026 mg/L). In addition, the 1,4-Dioxane levels have already been reduced to a maximum of 1.6 mg/L in groundwater. All of the above described characterization and remediation activities have been conducted with the Board's approval.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in the soil and groundwater at the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, exposure to these contaminants could take place via one or more of the following routes of exposure: soil ingestion, soil dermal contact, indoor inhalation of vapors from soil gas, indoor inhalation of vapors from groundwater, outdoor inhalation of soil particulates, outdoor inhalation of vapors from soil, and outdoor inhalation of vapors from groundwater. After remediation and installation of controls, a site specific Human Health Risk Assessment (HHRA) was performed that was reviewed and approved by Office of the Environmental Health Hazard Assessment (OEHHA), under Regional Board's oversight. The results of the HHRA have shown that the Burdened Property, subject to the restrictions of this Covenant, does not present an unacceptable threat to human safety or the environment, if limited to commercial and industrial use. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Land Uses and Population Potentially Affected. The Burdened Property is presently used for warehousing and has been improved with an approximate 552,000 square-foot industrial building complete with all necessary grading, underground utilities, concrete slab on grade, dock doors, a full concrete or asphalt truck court area, and landscaped areas. The Burdened Property is adjacent to other commercial and industrial land uses.

E. Disclosure and Sampling. Disclosure of the presence of hazardous materials on the Burdened Property has been made to the Board and extensive sampling of the Burdened Property has been conducted.

F. Use of Burdened Property. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that might result from any hazardous materials that might remain deposited on portions of the Burdened Property.

ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and/or conveyed. These Restrictions are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors, assigns and lessees thereof for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions: (a) are imposed upon the entire Burdened Property, unless expressly stated as applicable only to a specific portion of the Burdened Property; (b) run with the land pursuant to section 1471 of the Civil Code; and (c) are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, and possessors of all or any portion of the Burdened Property shall become Owners or Occupants as defined herein and shall be deemed by their purchase, leasing, or possession of the Burdened Property to be bound by the Restrictions and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions herein established must be adhered to for the benefit of the Board and all Owners and Occupants, and that the interest of all Owners and Occupants of the Burdened Property shall be subject to the Restrictions.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions shall be incorporated in and attached to each and all deeds and leases of all or any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board, Los Angeles Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, structures, utilities, roads, driveways, gradings, re-gradings, and paved areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupant or Occupants. "Occupant" or "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and Covenantor's successors in interest who hold title to all or any portion of the Burdened Property.

ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development and use of the Burdened Property shall be restricted to industrial, commercial, and/or office space;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No public or private schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No care or community centers for children or senior citizens, or other uses that would involve the regular congregation of children or senior citizens, shall be authorized on the Burdened Property;
- f. No Owner or Occupant shall conduct or permit any excavation work, which excludes trenching necessary to maintain or repair utilities, on the Burdened Property. Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed by the Owner, Owner's agent, Occupant or Occupant's agent in accordance with all applicable

provisions of local, state and federal law;

g. Any excavation conducted on the Burdened Property shall be performed pursuant to an appropriate and fully implemented Health and Safety Plan;

h. All uses and development of the Burdened Property shall be consistent with any applicable Board Order or Risk Management Plan, each of which is hereby incorporated herein by reference, and including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, unless otherwise expressly permitted in writing by the Board;

i. No Owner or Occupant shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board; nor shall the Owner or Occupant permit or engage any third party to do such acts;

j. The Owner and Occupant shall notify the Board of each of the following: (1) the type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notifications to the Board shall be made by registered mail within ten (10) working days of both the date of discovery of such disturbance and the date of completion of repairs;

k. The Covenantor agrees that the Board, and any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring as provided in Division 7 of the Water Code; and

l. No Owner or Occupant shall act in any manner that threatens or is likely to aggravate or contribute to the existing contaminated conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the Restrictions set forth in Paragraph 3.1 shall be grounds for the Board, by the authority of this Covenant, to require that the Owner or Occupant modify or remove, or cause to be modified or removed any Improvements constructed in violation of that Paragraph. Violation of this Covenant shall also be grounds for the Board to file civil actions against the Owner or Occupant as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to all or any portion of the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the groundwater under the property, and is subject to a Covenant and Environmental Restriction dated as of _____, 2009, and recorded on _____, 2009, in the Official Records of Los Angeles County, California, as Document No. _____, which Covenant and Environmental Restriction imposes certain covenants, conditions, and restrictions on the usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner, or with the Owner's written consent, any Occupant, or Cerro Metals Products (including its successor, CMPC Transition Corp.), may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with Paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (a) when delivered, if personally delivered to the person being served or an official of a government agency being served, or (b) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested, addressed:

If To: "Covenantor"
Paramount Logistics, LLC
c/o Ralphs Grocery Company
1100 W. Artesia Boulevard
Compton, CA 90220
Attention: Law Department

With a copy to:
The Kroger Co.
1014 Vine Street
Cincinnati, OH 45202
Attention: Law Department

If To: "Board"
Regional Water Quality Control Board
Los Angeles Region
Attention: Executive Officer
320 W. 4th Street, Suite 200
Los Angeles, California 90013

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined by a court having jurisdiction to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.5 References. All references to Code sections include successor provisions.

5.6 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to preserve and implement the purpose of this instrument and the policies and purposes of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: Paramount Logistics, LLC

Print Name: _____

Signature: _____

Title: _____

Date: _____

CERTIFICATE OF ACKNOWLEDGMENT

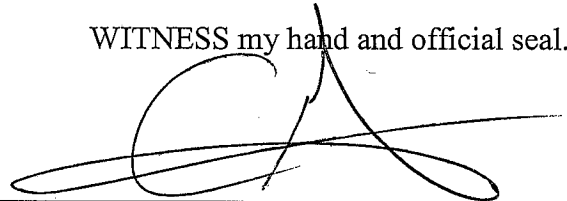
State of California

County of Los Angeles

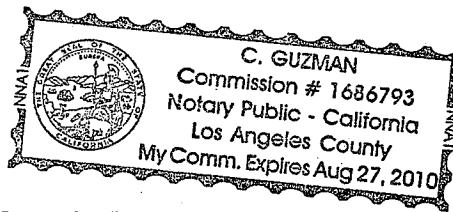
On November 19, 2009 before me, C. Guzman, Notary Public,
personally appeared Tracy J. Egoscue,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature of Notary Public



(Notary Seal)

California Regional Water Quality Control Board, Los Angeles Region

Print Name: Tracy J. Egoscue

Signature: 

Title: Executive Officer

Date: 11/19/09

CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

On _____, 2009, before me, _____, Notary Public, personally appeared Tracy J. Egoscue, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

All that certain real property situated in the county of Los Angeles, state of California, described as follows:

Parcel 1 of Parcel map 10229, in the City of Paramount, County of Los Angeles, State of California, as per map recorded in Book 100, pages 4 and 5 of Maps, in the office of the county recorder of said County

Assessor's Parcel Number: 6241-018-022